

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEITH L NASH,

Plaintiff,

v.

RICHARD I BISHOP, PAUL
DOUGHER, KIM BELTRAN, KURT
HOLLOPETER, JACK HUFF,

Defendants.

CASE NO. 3:14-CV-05851-RBL-DWC

ORDER

Plaintiff, proceeding *pro se* and *in forma pauperis*, filed this civil rights Complaint pursuant to 42 U.S.C. § 1983. Presently before the Court are Plaintiff's Motion for Court Ordered Conference Hearing (Dkt. 55), Motion for an Order to Obtain Court Reporter (Dkt. 57), Motion to Discharge Defense Counsel (Dkt. 58) and Motion for Enlargement of Time (Dkt. 66).

A. Motion for Court Ordered Conference Hearing (Dkt. 55)

Plaintiff requests a Court Ordered Conference Hearing pursuant to Rule 16 of the Federal Rules of Civil Procedure. Dkt. 55. However, a discovery conference hearing is not required in this prisoner civil rights action. *See* Fed. R. Civ. P. 26(a)(1)(B)(vi), (f)(1); *Grigsby v. Munguia*,

1 2015 WL 1671257, at *3 (E.D. Cal. Apr. 14, 2015). Accordingly, Plaintiff's Motion is denied.
2 However, Plaintiff is encouraged to correspond with counsel for Defendants regarding
3 Defendants' responses to Plaintiff's discovery requests.

4 **B. Motion for an Order to Obtain Court Reporter (Dkt. 57)**

5 The Court denied Plaintiff's prior Motion to Compel requesting that Defendants provide
6 Plaintiff with the necessary resources for Plaintiff to "record and transcribe the depositions" at
7 Defendant's expense. Dkts. 30, 37. The Court noted the costs of discovery should be borne by
8 the party requesting discovery. *Id.*

9 Plaintiff now requests the Court obtain a court reporter or notary to swear deponents. Dkt.
10 57. The Court reiterates it is not the Court's responsibility to provide Plaintiff with the resources
11 necessary for him to conduct depositions. *See* Dkt. 37 (*citing Lewis v. Casey*, 518 U.S. 343, 384
12 (1996) (an inmate's constitutional right of access to the courts does not impose "an affirmative
13 obligation on the states to finance and support prisoner litigation") and *Merchant v. Lopez*, 2010
14 WL 890139, *1 (S.D. Cal. March 8, 2010) (finding a prisoner plaintiff financially responsible for
15 the depositions of witnesses, not the court or the defendants)).

16 Further, Rule 30 of the Federal Rules of Civil Procedure provides that "[t]he noticing
17 party bears the recording costs" in conducting depositions. Fed. R. Civ. P. 30(b)(3)(A). Although
18 the Court granted plaintiff's application to proceed *in forma pauperis*, (Dkt. 5), the *in forma*
19 *pauperis* statute, 28 U.S.C. § 1915, only waives the filing fee for an indigent prisoner's civil
20 rights complaint, and it does not require the Court to order financing of the entire action or
21 waiver of fees or expenses for witnesses. *Hadsell v. Comm'r Internal Revenue Serv.*, 107 F.3d
22 750, 752 (9th Cir. 1997); *Dixon v. Ylst*, 990 F.2d 478, 480 (9th Cir. 1993); *Tedder v. Odel*, 890
23 F.2d 210, 211–12 (9th Cir. 1989) (per curiam). Thus, Plaintiff is financially responsible for all
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1 other costs of litigation including the cost of a court reporter. Given the costs associated with a
2 court reporter, a party should consider alternative and less expensive means of obtaining
3 discovery, such as interrogatories, requests for production, and/or deposition by written
4 questions. Accordingly, Plaintiff's Motion to for the Court to Obtain a Court Reporter is denied.

5 **C. Motion to Discharge Defense Counsel and Impose Penalties and Sanctions (Dkt. 58)**

6 Plaintiff seeks to discharge counsel for Defendants and impose sanctions under Federal
7 Rule of Civil Procedure 11. Dkt. 58. Plaintiff states that counsel has harassed and caused
8 unnecessary delay in discovery related matters. *Id.* Further, Plaintiff alleges that counsel has
9 attempted to prohibit Plaintiff from requesting assistance from the Clark County Prosecuting
10 Attorney's Office to obtain documents relevant to "a pending investigation necessary to
11 commence with a criminal proceeding," *see id.* at 4, and defense counsel has continued to
12 forward mail through the Clark County Jail Staff employees, *id.* at 5. Plaintiff states he has filed
13 a grievance complaint against counsel with the Washington State Bar Association ("WSBA")
14 which the WSBA has dismissed. *Id.*

15 In opposition, Defendants argue that Plaintiff has failed to provide any facts or legal
16 authority in support of his Motion and that plaintiff's claim under Rule 11 is meritless. Dkt. 59 at
17 2. Further, Defendants request the Court to consider whether Plaintiff's motion warrants
18 sanctions. *Id.*

19 Rule 11 sanctions may be imposed "when a filing is 'frivolous,' meaning that it is
20 'baseless and made without a reasonable and competent inquiry.' " *Townsend v. Holman*
21 *Consulting Corp.*, 929 F.2d 1358, 1362 (9th Cir. 1990). Here, Plaintiff fails to provide any facts
22 supporting his claim that Defendants made representations or filed documents with the Court that
23 would constitute an unwarranted, frivolous or unsupported claim or denial. Plaintiff's Motion is
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1 not authorized under Rule 11 and Plaintiff cites to no other legal authority for his Motion. Thus,
2 the Court denies Plaintiff's Motion and also denies Defendants' request to impose sanctions
3 against Plaintiff at this time.

4 **D. Motion for Enlargement of Time (Dkt. 66)**

5 On August 7, 2015, Plaintiff filed a Motion requesting the Court extend the discovery
6 period by 60 days to October 18, 2015. Dkt. 66. However, on August 27, 2015, the Court entered
7 a Revised Pretrial Scheduling Order (Dkt. 68) with a new discovery deadline of February 27,
8 2016. Thus, Plaintiff's Motion is moot.

9 Accordingly, it is ORDERED:

- 10 1) Plaintiff's Motion for Court Ordered Conference Hearing (Dkt. 55) is denied.
11 2) Plaintiff's Motion for an Order to Obtain Court Reporter (Dkt. 57) is denied.
12 3) Plaintiff's Motion to Discharge Defense Counsel and to Impose Sanctions (Dkt. 58) is
13 denied.
14 4) Plaintiff's Motion for Enlargement of Time (Dkt. 66) is moot.

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16 Dated this 1st day of September, 2015.

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20 David W. Christel
21 United States Magistrate Judge
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